



H.R. 953 - Reducing Regulatory Burdens Act of 2017 (Rep. Gibbs, R-OH)

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FLOOR SCHEDULE:

H.R. 953 is expected to be considered on May 24, 2017, under a [rule](#). The rule makes in order [two amendments](#), which are summarized below.

TOPLINE SUMMARY:

[H.R. 953](#) would repeal Environmental Protection Act (EPA) requirements that require permitting under the Clean Water Act (CWA) for the application of EPA approved pesticides.

COST:

The [Congressional Budget Office](#) (CBO) estimates that enacting H.R. 953 would “have no significant effect on the federal budget.”

CONSERVATIVE SUPPORT:

Many conservatives will be pleased that the bill would relieve local governments and mosquito control districts from the burden of EPA permitting requirements when they apply pesticides in an effort to kill mosquitos that could be carrying (vectors) diseases such as the Zika virus.

- **Expand the Size and Scope of the Federal Government?** No, the bill would end burdensome federal requirements.
- **Encroach into State or Local Authority?** No, the bill would relieve local authorities from certain federal requirements.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The [Federal Insecticide, Fungicide, and Rodenticide Act](#) (FIFRA) allows the EPA to regulate pesticides. All pesticides must be licensed by the EPA.

The [Clean Water Act](#) allows the EPA to regulate the waters of the United States. Under the CWA, National Pollutant Discharge Elimination System (NPDES) permits must be obtained from the EPA to discharge pollutants into water bodies.

In general, the EPA has not traditionally required NPDES permits for the use of FIFRA regulated pesticides. Lawsuits in the 1990's created uncertainty over whether NPDES permits would be required for the use of

FIFRA regulated pesticides near bodies of water. Consequently, the EPA finalized formal regulations in 2006 to clarify that FIFRA regulated pesticides are not pollutants under the CWA and therefore did not require NPDES permitting.

After further activist lawsuits, a federal court vacated the regulation and ruled that Clean Water Act NPDES permits would be required for FIFRA regulated pesticides that are used on or near water bodies.

H.R. 953 would clarify that the EPA and states may not require a NPDES permit for the discharge of FIFRA approved pesticides.

According to the [Agriculture Committee](#), these permitting requirements could apply to about 365,000 pesticide users and could cost as much as \$50,000 each annually. Violators of the regulations could face \$37,500 per day fines, despite the fact that most FIFRA regulated pesticide users have never been subject to the NPDES permitting process before.

As a consequence, local governments and mosquito control districts that should be focused on applying pesticides and eliminating the threat of mosquitos that could be vectors for dangerous diseases such as the Zika virus are instead burdened with the expensive and time-consuming experience of obtaining Clean Water Act permits and the threat of fines if they fail to comply.

OUTSIDE GROUP SUPPORT:

- [American Mosquito Control Association](#)
- Agribusiness Council of Indiana
- Agribusiness & Water Council of Arizona
- Agricultural Alliance of North Carolina
- Agricultural Council of Arkansas
- Agricultural Retailers Association
- Alabama Agribusiness Council
- American Farm Bureau Federation
- Alabama Farmers Federation
- American Soybean Association
- AmericanHort
- Aquatic Plant Management Society
- Arkansas Forestry Association
- Association of Equipment Manufacturers
- Biopesticide Industry Alliance
- California Agricultural Aircraft Association
- California Association of Winegrape Growers
- California Specialty Crops Council
- Cape Cod Cranberry Growers Association
- Colorado Agricultural Aviation Association
- The Cranberry Institute
- Crop Protection Association of North Carolina
- CropLife America
- Council of Producers & Distributors of Agrotechnology
- Family Farm Alliance
- Far West Agribusiness Association
- Florida Farm Bureau Federation Florida
- Fruit & Vegetable Association
- Georgia Agribusiness Council
- Golf Course Superintendents Association of America
- Hawaii Cattlemen's Council
- Hawaii Farm Bureau Federation
- Idaho Grower Shippers Association
- Idaho Potato Commission
- Idaho Water Users Association
- Illinois Farm Bureau
- Illinois Fertilizer & Chemical Association
- Iowa Agricultural Aviation Association
- Kansas Agribusiness Retailers Association
- Louisiana Cotton and Grain Association
- Louisiana Farm Bureau Federation
- Maine Potato Board
- Michigan Agribusiness Association
- Minnesota Agricultural Aircraft Association
- Minnesota AgriGrowth Council
- Minnesota Crop Production Retailers
- Minnesota Pesticide Information & Education
- Minor Crops Farmer Alliance
- Missouri Agribusiness Association
- Missouri Farm Bureau Federation
- Montana Agricultural Business Association

- National Agricultural Aviation Association
- National Alliance of Forest Owners
- National Alliance of Independent Crop Consultants
- National Association of Landscape Professionals
- National Association of State Departments of Agriculture
- National Association of Wheat Growers
- National Corn Growers Association
- National Cotton Council
- National Council of Farmer Cooperatives
- National Farmers Union
- National Onion Association
- National Pest Management Association
- National Potato Council
- National Rural Electric Cooperative Association
- National Water Resources Association
- Nebraska Agri-Business Association
- North Carolina Agricultural Consultants Association
- North Carolina Cotton Producers Association
- North Central Weed Science Society
- North Dakota Agricultural Association
- Northeast Agribusiness and Feed Alliance
- Northeastern Weed Science Society
- Northern Plains Potato Growers Association
- Northwest Horticultural Council
- Ohio Professional Applicators for Responsible Regulation
- Oregon Association of Nurseries
- Oregon Farm Bureau
- Oregon Forest and Industries Council
- Oregon Potato Commission
- Oregon Seed Council
- Oregon Water Resources Congress
- Oregon Wheat Growers League
- Oregonians for Food & Shelter
- Pesticide Policy Coalition
- Plains Cotton Growers, Inc.
- Professional Landcare Network
- Responsible Industry for a Sound Environment
- Rocky Mountain Agribusiness Association
- SC Fertilizer Agrichemicals Association
- South Dakota Agri-Business Association
- South Texas Cotton and Grain Association
- Southern Cotton Growers, Inc.
- Southern Crop Production Association
- Southern Rolling Plains Cotton Growers
- Southern Weed Science Society
- Sugar Cane League
- Texas Ag Industries Association
- Texas Vegetation Management Association
- United Fresh Produce Association
- U.S. Apple Association
- USA Rice Federation
- Virginia Agribusiness Council
- Virginia Forestry Association
- Washington Friends of Farm & Forests
- Washington State Potato Commission
- Weed Science Society of America
- Western Growers
- Western Plant Health Association
- Western Society of Weed Science
- Wild Blueberry Commission of Maine
- Wisconsin Farm Bureau Federation
- Wisconsin Potato and Vegetable Growers Association
- Wisconsin State Cranberry Growers Association
- Wyoming Ag Business Association
- Wyoming Crop Improvement Association
- Wyoming Wheat Growers Association

AMENDMENTS:

1. [Etsy \(D-CT\)](#): Would require Clean Water Act permits for any application of a pesticide that includes any ingredient that is listed pursuant to the Emergency Planning and Community Right-To-Know Act of 1986 or Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
2. [Huffman \(D-CA\)](#): Would require a Clean Water Act permit for “any discharge (as defined in such Act) that would have a negative effect on commercial, recreational, or subsistence fisheries, or on

fisheries protected by Tribal treaty rights, as determined by the Administrator or the State, as applicable, based on the best available science.” Under current law, the registration process for pesticides takes into account the health of aquatic species.

COMMITTEE ACTION:

H.R. 953 was introduced on February 7, 2017, and referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture. On [February 16, 2017](#), the Committee on Agriculture marked up and reported the bill by a voice vote.

In the 114th Congress, virtually identical legislation was considered as [H.R. 897, the Zika Vector Control Act](#). On May 17, 2016, H.R. 897 failed under a motion to suspend the rule and pass the bill by a [262 – 159](#) vote. H.R. 897 was then passed by a [258 – 156](#) vote on May 24, 2016. The only difference between H.R. 897 and H.R. 953 is that H.R. 953 does not include a sunset provision.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, Section 8, Clause 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.”

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